IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

L.P.A.Stamp No.34297 of 2002
in
Writ Petition No.3147 of 2002
with
C.A.No. 362 of 2002

Yashwantrao Shikshan Sanstha ..Appellants

vs.

1. The State of Maharashtra
and others ..Respondents

Ms. Seema Sarnaik with Mr.Harshad Bhadbhade for appellants.
Mr.S.V.Pitre for respondent no.2.

CORAM: A.P.SHAH
& S.U.KAMDAR JJ.
6th August,2004

P.C.

1. Heard Advocates for the parties.

2. Perused the order of the School Tribunal as also the order of the learned single Judge. We do not find any reason to interfere with the impugned order which is only an interlocutary order. Having regard to the finding recorded by the Trial Court that the order of termination was malafide, the learned single Judge was right in directing the management to deposit the amount of back wages.

3. The appellant is directed to comply with the order of the learned single Judge within a period

of four weeks from today.

4. It is brought to our notice that by order passed by the Education Officer, Pune, the second respondent has been declared as surplus and his services were allotted to Seth Dagaduram Kataria Highschool. However, this order was not implemented due to pendency of the writ petition. The issue of absorption is altogether different issue and that need not be kept pending on the outcome of the writ petition. Therefore, we direct the Education Officer to take steps to ensure absorption of the second respondent in the school mentioned in the order dated 22nd October, 2003 and if there is no vacancy in that school in any other school within the jurisdiction of the Education Offixcer by treating the second respondent as surplus.

5. Appeal is accordingly disposed of.

6. In view of order in appeal Civil Application No.362 of 2002 does not survive and hence rejected.

Parties to act on an ordinary copy of this order duly authenticated as true copy by the Sheristedar/P.S. of this Court.

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1. Heard Advocates.

2. Delay in filing the appeal is condoned.

3. Civil Application is made absolute in terms of prayer clause (a).